

**FISH AND WILDLIFE SERVICE
LAW ENFORCEMENT**

Law Enforcement

Part 454 Public Affairs and Release of Information

Chapter 1 Public Affairs and Release of Information for the Office of Law Enforcement

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1.1 What is the purpose of this chapter? This chapter establishes policy and procedures for Office of Law Enforcement (OLE) staff to:

- A. Provide investigative and general law enforcement information to external groups, and
- B. Process formal requests for official law enforcement records.

1.2 What is the policy? Providing accurate and timely information about law enforcement matters to external audiences helps us fulfill our mission of protecting wildlife resources. OLE staff should follow the guidelines established in this chapter to inform the public, the media, Congress, and others about law enforcement issues and activities.

1.3 What is the scope of the chapter? This chapter covers providing law enforcement information to the public, the media, and Congress. It also covers formal requests for law enforcement records made under the Freedom of Information Act (FOIA) and Privacy Act.

1.4 What are the authorities for this chapter? The authorities for this chapter are:

- A. 16 U.S.C.
- B. 446 DM, Law Enforcement.

1.5 What are the general guidelines for providing information to the public?

A. Our special agents, wildlife inspectors, and other OLE staff play an important role in informing the public about wildlife laws and promoting compliance. Both proactive educational outreach and accurate responses to specific public inquiries support OLE's wildlife protection mission. OLE staff, however, must remember that making law enforcement information public can be a complicated and sensitive matter. They must:

(1) Limit responses to public inquiries to matters that fall within the scope of their authority and professional knowledge, and

(2) Obtain supervisory approval before releasing information about specific investigations.

B. Special agents and wildlife inspectors should respond as fully and accurately as possible to individuals or groups seeking information about wildlife laws, regulations, and Service policies. They must:

(1) Restrict their assistance to factual explanations and official interpretations.

(2) Forward questions about matters that our policy does not address to the appropriate Special Agent in Charge (SAC), who will send such questions to Headquarters, OLE (HQ/OLE). HQ/OLE determines whether a policy interpretation or statement is appropriate and provides guidance to the field.

1.6 What are the general guidelines for communicating with the news media? We recognize that media coverage of law enforcement can help promote public understanding of, and compliance with, wildlife laws and regulations. We encourage OLE staff to communicate with news media representatives concerning general law enforcement matters that fall within the scope of their authority and professional knowledge. To inform the public about our investigations, OLE staff must:

A. Work with our External Affairs offices to provide timely, accurate information to the news media in a manner that complies with Departmental and Service policies and that does not compromise the security of officers, the rights of individuals, or the integrity of ongoing investigations.

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B. Get approval from OLE supervisors before discussing investigative matters with the media.

1.7 What are the general requirements for getting approval to respond to questions from the news media about law enforcement investigations?

A. Before providing information about current law enforcement investigations to the media, OLE staff must obtain approval from the appropriate SAC and U.S. Attorney.

B. To issue news releases about Service investigations or other law enforcement matters, OLE staff must follow the OLE, Regional, and Service headquarters procedures described in section 1.8 below.

C. The media can only be present during actual law enforcement operations or inspections if OLE staff gets the prior approvals described in section 1.10 of this chapter.

D. When a Service special agent makes an arrest or apprehension of purely local interest, the officer may provide essential facts to the media with SAC and U.S. Attorney concurrence. The officer or SAC should notify the Regional or California/Nevada Operations (CNO) External Affairs office of any release of information to the news media as soon as possible.

1.8 How does the Service issue news releases related to law enforcement? There are two categories of news releases—national and Regional/CNO. Our Division of Public Affairs in Washington, D.C. issues national news releases. National news releases deal primarily with policy matters (such as regulatory changes) or investigative results that are of widespread national interest. Our Regional/CNO External Affairs offices issue Regional/CNO news releases that inform the media and the public about OLE investigations and activities conducted in the Region/CNO.

A. National News Releases.

(1) Responsibilities.

(a) The Chief, OLE informs the Chief, Division of Public Affairs, of pending investigative developments of national interest (e.g., takedowns, indictments, plea agreements) as early as possible to allow for planning a media strategy and preparation and clearance of news releases.

(b) Regional SACs alert the Chief, OLE in advance of Regional law enforcement matters that warrant national attention.

(c) The SAC; the Assistant Regional Director/CNO Assistant Manager for External Affairs (ARD/EA) in the affected Regions/CNO; the Chief, OLE; and Chief, Division of Public Affairs, work together to plan national media outreach. These managers will include appropriate Department of Justice (DOJ) offices in the planning process (including U.S. Attorney Offices and DOJ Headquarters).

(2) Clearance of National News Releases.

(a) The Chief, OLE must approve national news releases about OLE activities. The Chief, Division of Public Affairs; Assistant Director for External Affairs (AD/EA); and (when appropriate) the Director and DOJ must review and approve these releases.

(b) HQ/OLE and the Division of Public Affairs must coordinate national news releases about Regional investigations with the appropriate SAC, ARD/EA, and U.S. Attorney. Regional SACs should continue to provide updated information to HQ/OLE after the Service issues a national news release as long as media interest in the case persists.

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(c) HQ/OLE and the Division of Public Affairs provide advance copies of national news releases about investigations conducted by the Branch of Special Operations to the SAC and the ARD/EA in the Region(s)/CNO where the investigative activity occurred.

(d) The Division of Public Affairs coordinates any Departmental clearances required for national news releases.

(e) HQ/OLE and the Division of Public Affairs jointly coordinate DOJ clearances as necessary.

B. Regional/CNO News Releases.

(1) Responsibilities.

(a) The Regional SAC coordinates the release of information about Regional law enforcement investigations with the ARD/EA.

(b) The SAC and ARD/EA contact their Headquarters counterparts (Chief, OLE and Chief, Division of Public Affairs) about issues of national interest.

(c) When a case involves more than one Region/CNO, the SAC in the lead Region coordinates release of information with the ARD/EA and notifies the SACs in the other affected Regions about the planned release of information.

(d) The SAC should advise the ARD/EA and HQ/OLE of contacts (or of anticipated inquiries) from major news media. HQ/OLE notifies the Chief, OLE and the Chief, Division of Public Affairs, as appropriate.

(2) Clearance of Regional/CNO News Releases.

(a) The SAC, the U.S. Attorney, and the ARD/EA must approve Regional/CNO news releases about Service investigations.

(b) Regional/CNO news releases that involve policy announcements or that may attract widespread news coverage require advance coordination with HQ/OLE. HQ/OLE notifies the Division of Public Affairs and other Headquarters offices, as appropriate.

(c) If a release describes an investigation involving more than one Region/CNO, the ARD/EA in the lead Region/CNO coordinates clearance of the release with the ARD/EA(s) in the other Region(s)/CNO.

(d) SACs should provide a final copy of all Regional/CNO law enforcement news releases to HQ/OLE when they are distributed or in advance if possible.

1.9 What investigative information can and cannot be provided to the media?

A. General Guidelines.

(1) When responding to questions from the news media about investigations, OLE staff must follow standing orders or guidelines of U.S. District Judges and U.S. Attorneys on providing investigative information. Such guidelines take precedence over any less restrictive Service policy.

(2) The Service makes no comment on pending cases (cases where no charges have been filed). OLE staff may use the following statement to express our policy: *The U.S. Fish and Wildlife Service does not discuss any pending investigation or whether or not an investigation is under way.*

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(3) The SAC or HQ/OLE may authorize exceptions to our “no comment on pending cases” policy when the release of information will aid an investigation or when declining to comment would adversely affect the image of the Service. OLE officials should ensure that comments on pending cases do not jeopardize due process for potential defendants.

(4) OLE staff must remember that providing information about investigations to the media may limit the Service’s ability to withhold that information from records requested by others under the FOIA or Privacy Act.

B. Releasable Information. With the concurrence of the U.S. Attorney, OLE staff may provide the following information to the news media after we file charges:

(1) Vital statistics of the defendant (i.e., name, age, address, employment, marital status, and similar background information, as appropriate). If the defendant is a minor, we may not release any information other than an acknowledgment that the subject is a minor.

(2) The substance or text of the charges.

(3) The penalties that the individual will face if he/she is convicted.

(4) The identity of the investigating or arresting agencies.

(5) The circumstances immediately surrounding an arrest, including the time, location, possession or use of weapons, and description of items seized.

C. Nondisclosure. OLE staff should not provide the following information to the news media:

(1) A defendant’s prior criminal record, except as already cited in the warrant, affidavits, or other public records where prior convictions are an element of proof. Staff must limit any release of this information to that part of the defendant’s record cited in these documents.

(2) Observations concerning a defendant’s character.

(3) Statements, admissions, confessions, or alibis by the defendant, or his/her refusal or failure to make a statement.

(4) Statements concerning evidence or arguments in a case, whether or not such evidence or arguments will be used at trial.

(5) Any opinions as to the defendant’s guilt or innocence or the possibility of a plea of guilty or a plea to a lesser offense.

(6) Any statement concerning any aspect of the court system.

(7) Any information during or immediately before a trial.

(8) Any information that discloses investigative procedures or techniques not generally known to the public.

(9) Information contained in sealed court documents, including indictments.

(10) Information obtained through a grand jury.

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D. Other Prohibitions. OLE staff should not:

(1) Encourage or assist the news media in photographing or televising a defendant or an accused person being held or transported in Federal custody. Staff should not release photographs of a defendant unless doing so serves a definite law enforcement function.

(2) Provide information to one member of the news media and withhold that same information from another member of the news media.

(3) Suggest or request that a member of the news media withhold the publication or broadcast of news. If special circumstances warrant such a request, staff must get approval from the appropriate SAC, who will consult with a Government attorney.

1.10 What are the guidelines for interacting with the news media during law enforcement activities?

A. Media “Ride-Alongs” during Covert Operations. News media personnel may not accompany Service special agents on active covert investigations.

B. Media Presence during Routine Overt Investigations or Inspections.

(1) News media may accompany OLE staff on routine overt investigations or inspections in public locations with prior approval from the SAC.

(2) News media may accompany OLE staff in areas not open to the public only with prior approval from the SAC, U.S. Attorney’s Office, and all parties who have a reasonable expectation of privacy in that area.

(3) OLE staff should never conceal the presence of media personnel.

(4) Only OLE staff may videotape the execution of a search and/or arrest warrant. OLE staff may only make and use such tapes for law enforcement purposes. We do not allow the media to film the execution of search or arrest warrants.

C. Public Disclosure Implications. All media “ride alongs” carry a presumption of public disclosure. Before a member of the media accompanies a Service officer during an investigation or inspection, OLE staff must alert the FOIA Coordinator for HQ/OLE to better prepare for the processing of any subsequent FOIA requests. The FOIA Coordinator for HQ/OLE will alert the Service FOIA Officer and the Office of the Solicitor, as appropriate.

1.11 How do OLE staff respond to Congressional inquiries? OLE staff:

A. Must coordinate meetings and briefings with members of Congress and responses to Congressional inquiries with the SAC and the appropriate Regional/CNO legislative affairs specialist.

B. Must notify HQ/OLE in advance of any meetings planned with members of Congress or their staffs in Washington, D.C.

C. May disclose law enforcement information normally withheld under the FOIA or the Privacy Act to members of Congress acting on behalf of a committee or subcommittee. We process requests from members of Congress acting on behalf of themselves or a constituent as a request from “any person” under FOIA. We should release information in accordance with routine uses identified in the Privacy Act system of records notice as “Investigative Case File System – Interior, FWS-20,” and with particular regard for Congressional relations and the ability to make discretionary disclosure for legitimate Government interest. Such disclosures should include a caveat noting that:

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- (1) The information is generally protected under the Privacy Act or FOIA,
- (2) It would normally not be released to the public, and
- (3) Unauthorized release by Congress could jeopardize the agency's ability to withhold the information from the public or could violate the Privacy Act.

1.12 How does the OLE process FOIA requests for law enforcement records?

- A.** OLE staff process requests for records submitted under the FOIA in accordance with Service policy and Department regulations. (See 203 FW 1 and 2 and 43 CFR 2.)
- B.** OLE staff may provide the media readily available information that they would clearly release to any interested party, and that does not involve fee issues or any withholdings, without invoking the FOIA or asking the requester to submit a FOIA request.
- C.** OLE staff who receive a FOIA request related to law enforcement should immediately notify their SAC. The SAC coordinates with the Regional/CNO FOIA Officer or HQ/OLE to process the request. OLE staff may refer individuals seeking information on how to file FOIA requests to HQ/OLE, the Regional/CNO FOIA Officer, or the Service FOIA Officer.
- D.** HQ/OLE staff:
 1. Process all FOIA requests for OLE investigative records, enforcement statistics, or import/export and inspection data. OLE field staff who receive requests for such records should give them to the SAC, who sends them to HQ/OLE.
 2. Coordinate FOIA requests with the Chief, OLE and any appropriate SAC when the information we are releasing is potentially sensitive or the request involves high profile or nationally significant individuals or organizations.
 3. Log FOIA requests into the Department's electronic FOIA Tracking System.
 4. Send FOIA responses that withhold information or deny requests for expedited processing or fee waivers to the Service FOIA Officer and the Office of the Solicitor for review and approval.
 5. Inform the Service FOIA Officer and the Office of the Solicitor about any prior releases of information being reviewed. Prior releases might include news releases, informal statements, or previous press access to information through a ride-along.

1.13 How does the OLE process requests for records under the Privacy Act?

- A.** When an individual requests records about himself/herself that are contained in a Privacy Act (5 U.S.C. 552(a)) system of records and cites both FOIA and the Privacy Act, we grant the individual the greatest access to his/her records as possible. When an individual submits a request for records pertaining to another party, we treat the request as a FOIA request.
- B.** More information is available under the Privacy Act for the individual to whom the records apply. Individuals who want to receive the most information about themselves may choose to file under both the FOIA and the Privacy Act so that they get information that is not held within a Privacy Act system.
- C.** The Privacy Act, unlike the FOIA, only applies to U.S. citizens or lawfully admitted aliens.

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D. OLE staff who receive Privacy Act requests should follow the notification procedures for FOIA requests described in section 1.12C above.

E. We may only assess copy costs for Privacy Act requests. We may waive fees related to a person's request for one copy of their records in accordance with Departmental regulations.



DEPUTY
DIRECTOR

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